

MEETING RECORD

NAME OF GROUP: City Board of Zoning Appeals

DATE, TIME AND

PLACE OF MEETING: Friday, September 26, 2003, 1:30 p.m., Hearing Chambers,
County-City Building, 555 South 10th Street, Lincoln, Nebraska

MEMBERS AND OTHERS

IN ATTENDANCE:

Members: Gene Carroll, George Hancock, Gerry Krieser,
Tom Wanser, and Linda Wibbels.
Others: Terry Kathe (Building & Safety), Tonya Skinner
(City Law Dept.), Becky Horner and Michele
Abendroth (Planning Dept.), applicants and
other interested parties.

STATED PURPOSE

OF THE MEETING: Regular Meeting of the City Board of Zoning Appeals

Mr. Hancock called the meeting to order at 1:30 p.m.

Approval of the minutes of the August 22, 2003 meeting

Mr. Wanser made a motion to approve the August 22, 2003 minutes, seconded by Mr. Krieser. Motion carried 5-0. Carroll, Hancock, Krieser, Wanser, and Wibbels voting 'yes'.

Appeal No. 2362 by Paul J. Peter for a variance to allow the side yard setback to be reduced on property generally located at 3240 S. 31st Street.

PUBLIC HEARING

September 26, 2003

Paul Peter, owner of the property, stated that they are seeking a variance of the side yard in order to connect the house to the garage. Mr. Peter stated that when the garage was built, it was in conformance with building requirements. Currently, they are seeking to add a breezeway and four seasons room, so the garage will be attached to the house. They re-built the garage when they purchased the home so that it would be aesthetic and functional. In 1998, they did some remodeling and put on an addition, and subsequently used the back entrance more frequently than before. They discovered that in the winter, there was a problem with snow and ice collecting between the house and garage. The logical answer to resolve the safety and liability problem was to put in a breezeway from the house to the garage. In addition, they determined that a four-season room would be possible. Mr. Peter stated that there is not any encroachment. He believes that there are peculiar and unusual circumstances with this property.

Tom Wanser asked the applicant if he had considered moving the garage to the south. Mr. Peter stated that they did look at that option, but there were some concerns aesthetically and with cost effectiveness.

Mr. Peter also noted that his neighbors, Walter and Carol Schact, do not have a problem with this request, and he presented a letter indicating such.

Mr. Hancock asked what the source of the ice and snow is that is causing the problem. Mr. Peter noted that there are several sources. Ms. Wibbels stated that she can understand the problem with the ice and snow because of the way the house is situated.

Mr. Hancock asked if there was further testimony in favor of or against the applicant.

Foster Haecker, 3201 S. 31st, stated that he is here supporting the applicant's request.

Mr. Hancock asked if there was further testimony in favor of or against the applicant. With no one appearing further, Mr. Hancock closed the hearing.

ACTION

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Ms. Wibbels stated that the ordinance itself is peculiar. The fact that they are attaching the garage is what puts them in non-compliance, but there is no encroachment. Mr. Carroll stated that he will vote against this request because the applicant knew when he built the garage what the requirements were. There is nothing peculiar or unusual about the lot. He also has an option to move the garage. Mr. Hancock stated that he also does not find the circumstances peculiar or unusual; however, there is nothing negative about this application. Ms. Wibbels stated that she finds no harm in granting this variance.

Terry Kathe noted that the reason for the code is because of fire safety, as fire could transfer from one building to the next.

Mr. Wanser stated that he agrees with everything the Board members have said, and noted that this is a difficult case. Mr. Krieser stated that he agrees with Mr. Carroll in that there is another option of moving the garage. Ms. Wibbels stated that it is unreasonable to move the garage.

Tonya Skinner stated that she understands that this property has had substantial improvements and that aesthetically it would be pleasing to approve this request. But Mr. Kathe raised a valid point for the reason for the code. She also noted that legally there are no unusual or peculiar circumstances, and if we approve this variance because it is aesthetically pleasing, then how do we separate this from similar future requests. Ms. Skinner stated that if we are seeing this type of issue frequently, perhaps the best answer is to change the code. Mr. Wanser asked about the probability of that happening. Ms. Skinner stated there are some options, and it would take some coordination and work among departments.

Mr. Kathe pointed out that the applicant mentioned the garage was built on a monolithic slab, and building code would not allow a building without frost-line footings to be connected to a building with frost-line footings. Mr. Peter responded that he understands that a building permit was issued before he found out about the zoning issue, and he does not believe this is an issue. He also noted that he believes that the area between the house and garage, which creates the wind/snow tunnel, is the peculiar and unusual circumstance.

Ms. Wibbels made a motion to approve the application, seconded by Mr. Wanser.

Motion failed 2-3. Wanser and Wibbels voting 'yes'; Carroll, Hancock, and Krieser voting 'no'.

Appeal No. 2364 by Kent Steen for a variance to allow the rear yard setback to be reduced on property generally located at 5331 Mission Circle.

PUBLIC HEARING

September 26, 2003

Kent Steen, owner of the property, stated that he would like to build a sunroom on their house. He stated that an unusual or peculiar circumstance is that the lot is an irregular shape. He noted that he feels that there is only one feasible location for the sunroom because of aesthetic and accessibility reasons. He noted that many of his neighbors support this request, and he has 13 signatures indicating such.

Mr. Hancock asked if there was anyone appearing on behalf of or against the applicant. With no one appearing further, Mr. Hancock closed the hearing.

ACTION

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Mr. Carroll stated that when they built the house, they had the option to situate the house differently. He does not believe there are any unusual or peculiar circumstances. Mr. Krieser stated that he agrees. Mr. Wanser stated that he will vote to approve this request because he believes the lot is unusual. Ms. Wibbels commented that she has heard today about what "the applicant could have" done, and we are dealing with "what is." She believes that there are unusual and peculiar circumstances with this lot. Mr. Hancock responded that the code takes into consideration what could have been by the property owner. Mr. Carroll responded that the applicant has the opportunity to put the sunroom on the house in another location according to code, although that may not be the most aesthetically pleasing.

Mr. Kathe noted that it is becoming more common to have more irregular shaped lots, as opposed to lots that are on a rectangular grid. Ms. Skinner suggested that the Board look at the platting map provided to them. She noted that this lot is different from most lots.

Mr. Carroll made a motion to deny the application, seconded by Mr. Krieser.

Motion failed 2-3. Carroll and Krieser voting 'yes'; Hancock, Wanser, and Wibbels voting 'no'.

Ms. Wibbels made a motion to approve the application, seconded by Mr. Wanser.

Motion carried 3-2. Hancock, Wanser, and Wibbels voting 'yes'; Carroll and Krieser voting 'no'.

There being no further business, Mr. Hancock adjourned the meeting at 2:44 p.m.